

meet the requirements of § 32.72(b)(5) of this chapter.

(k) As required by the Additional Protocol, each specific licensee authorized to possess and use byproduct material shall file with the Commission location information described in § 75.11 of this chapter on DOC/NRC Forms AP-1 and associated forms. The licensee shall also permit verification of this information by the International Atomic Energy Agency (IAEA) and shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in part 75 of this chapter.

(l) Each licensee shall ensure that Safeguards Information is protected against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.23 of this chapter, as applicable.

[30 FR 8185, June 26, 1965]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 30.34, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### **§ 30.35 Financial assurance and recordkeeping for decommissioning.**

(a)(1) Each applicant for a specific license authorizing the possession and use of unsealed byproduct material of half-life greater than 120 days and in quantities exceeding  $10^5$  times the applicable quantities set forth in appendix B to part 30 shall submit a decommissioning funding plan as described in paragraph (e) of this section. The decommissioning funding plan must also be submitted when a combination of isotopes is involved if  $R$  divided by  $10^5$  is greater than 1 (unity rule), where  $R$  is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in appendix B to part 30.

(2) Each holder of, or applicant for, any specific license authorizing the possession and use of sealed sources or plated foils of half-life greater than 120 days and in quantities exceeding  $10^{12}$  times the applicable quantities set forth in appendix B to part 30 (or when a combination of isotopes is involved if  $R$ , as defined in § 30.35(a)(1), divided by  $10^{12}$  is greater than 1), shall submit a decommissioning funding plan as de-

scribed in paragraph (e) of this section. The decommissioning funding plan must be submitted to NRC by December 2, 2005.

(b) Each applicant for a specific license authorizing possession and use of byproduct material of half-life greater than 120 days and in quantities specified in paragraph (d) of this section shall either—

(1) Submit a decommissioning funding plan as described in paragraph (e) of this section; or

(2) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by paragraph (d) of this section using one of the methods described in paragraph (f) of this section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section must be submitted to NRC before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to NRC, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section.

(c)(1) Each holder of a specific license issued on or after July 27, 1990, which is of a type described in paragraph (a) or (b) of this section, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section.

(2) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (a) of this section shall submit a decommissioning funding plan as described in paragraph (e) of this section or a certification of financial assurance for decommissioning in an amount at least equal to \$1,125,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning

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funding plan in any application for license renewal.

(3) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (b) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan as described, in paragraph (e) of this section, or a certification of financial assurance for decommissioning in accordance with the criteria set forth in this section.

(4) Any licensee who has submitted an application before July 27, 1990, for renewal of license in accordance with § 30.37 shall provide financial assurance for decommissioning in accordance with paragraphs (a) and (b) of this section. This assurance must be submitted when this rule becomes effective November 24, 1995.

(5) Waste collectors and waste processors, as defined in 10 CFR part 20, Appendix G, must provide financial assurance in an amount based on a decommissioning funding plan as described in paragraph (e) of this section. The decommissioning funding plan must include the cost of disposal of the maximum amount (curies) of radioactive material permitted by license, and the cost of disposal of the maximum quantity, by volume, of radioactive material which could be present at the licensee's facility at any time, in addition to the cost to remediate the licensee's site to meet the license termination criteria of 10 CFR part 20. The decommissioning funding plan must be submitted by December 2, 2005.

(6) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in the facility and environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 10 CFR 20.1402 criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

(d) Table of required amounts of financial assurance for decommissioning by quantity of material. Licensees required to submit the \$1,125,000 amount must do so by December 2, 2004. Licensees required to submit the \$113,000 or \$225,000 amount must do so by June 2, 2005. Licensees having possession limits exceeding the upper bounds of this

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table must base financial assurance on a decommissioning funding plan.

Greater than $10^4$ but less than or equal to $10^5$ times the applicable quantities of appendix B to part 30 in unsealed form. (For a combination of isotopes, if R, as defined in § 30.35(a)(1), divided by $10^4$ is greater than 1 but R divided by $10^5$ is less than or equal to 1) .....	\$1,125,000
Greater than $10^3$ but less than or equal to $10^4$ times the applicable quantities of appendix B to part 30 in unsealed form. (For a combination of isotopes, if R, as defined in § 30.35(a)(1), divided by $10^3$ is greater than 1 but R divided by $10^4$ is less than or equal to 1) .....	225,000
Greater than $10^{10}$ but less than or equal to $10^{12}$ times the applicable quantities of appendix B to part 30 in sealed sources or plated foils. (For a combination of isotopes, if R, as defined in § 30.35(a)(1), divided by $10^{10}$ is greater than, 1, but R divided by $10^{12}$ is less than or equal to 1) .....	113,000

(e)(1) Each decommissioning funding plan must be submitted for review and approval and must contain —

(i) A detailed cost estimate for decommissioning, in an amount reflecting:

(A) The cost of an independent contractor to perform all decommissioning activities;

(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;

(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and

(D) An adequate contingency factor.

(ii) Identification of and justification for using the key assumptions contained in the DCE;

(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(v) A signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

(i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;

(ii) Waste inventory increasing above the amount previously estimated;

(iii) Waste disposal costs increasing above the amount previously estimated;

(iv) Facility modifications;

(v) Changes in authorized possession limits;

(vi) Actual remediation costs that exceed the previous cost estimate;

(vii) Onsite disposal; and

(viii) Use of a settling pond.

(f) The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(2) *A surety method, insurance, or other guarantee method.* These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix A to this part. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in appendix C to this part. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in appendix D to this part. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in appendix E to this part. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(i) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Commission, the

beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Commission within 30 days after receipt of notification of cancellation.

(ii) The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(iii) The surety method or insurance must remain in effect until the Commission has terminated the license.

(3) *An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may decrease by the amount being accumulated in the sinking fund.* An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (f)(2) of this section.

(4) In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on the table in paragraph (d) of this section, and indicating that funds for decommissioning will be obtained when necessary.

(5) When a government entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such government entity.

(g) Each person licensed under this part or parts 32 through 36 and 39 of this chapter shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with § 30.34(b), licensees shall transfer all records described in this paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

(1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.

(2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(3) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:

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(i) All areas designated and formerly designated restricted areas as defined in 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);

(ii) All areas outside of restricted areas that require documentation under § 30.35(g)(1).

(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108; and

(iv) All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in 10 CFR part 20, subpart E, or apply for approval for disposal under 10 CFR 20.2002.

(4) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

(h) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 30 days after the end of the calendar quarter.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 30 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraph (h)(1) or (h)(2) of this section, the licensee must provide a written report of such actions to the Director, Office of Federal and State Materials and Environ-

mental Management Programs, and state the new balance of the fund.

[53 FR 24044, June 27, 1988, as amended at 56 FR 23471, May 21, 1991; 58 FR 39633, July 26, 1993; 58 FR 67659, Dec. 22, 1993; 58 FR 68730, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994; 60 FR 38238, July 26, 1995; 61 FR 24673, May 16, 1996; 62 FR 39090, July 21, 1997; 63 FR 29541, June 1, 1998; 68 FR 57335, Oct. 3, 2003; 76 FR 35564, June 17, 2011]

### **§ 30.36 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.**

(a) Each specific license expires at the end of the day on the expiration date stated in the license, unless the licensee has filed an application for renewal under § 30.37 not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license revoked by the Commission expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of byproduct material until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving byproduct material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements.

(d) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in § 30.6, each licensee shall provide notification